IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO. 5668 OF 2006

MISS NISHA PRANANATH KHANOLKAR ... PETITIONER
V/S.
DEPUTY DIRECTOR, VOCATIONAL
EDUCATION & TRAINING, MUMBAI & ORS ... RESPONDENTS

Mr.A.B. Borkar for petitioner.
Mr.S.K.Chinchalikar respondent no.1
Mr.T.S.Patwardhan for respndent nos. 2 and 3.

CORAM : A.P.DESHPANDE J.
DATE : 8TH JUNE, 2007

P.C.:-

1. This petition is filed by the unsuccessful appellant before the School Tribunal whose appeal directed against the order of termination has been dismissed on three grounds. viz:

i) That the vacancy wherein the petitioner was appointed was reserved for a backward category candidate whereas the petitioner who belongs to open category has been appointed therein.

ii) That due procedure, while appointing the petitioner, was not followed, and

iii) That the petitioner is not qualified and eligible for being appointed as an Instructor.

2. The petitioner was intially appointed temporarily by an order dated 05.01.1999 as an Instructor which appointment was temporarily approved by the Deputy Director of Vocational Education Training. Thereafter the Petitioner was appointed with effect from 28.07.1999 to 31.07.1999 and the next appointment was on 02.08.1999 which was approved for one year

on temporary basis by relaxing the conditions of eligibility of requisite experience and the last order of appointment of the petitioner was with effect from 27.09.2000 and the approval to the said appointment has been rejected, and on account of refusal of the approval of the appointment the Management terminated the petitioner from service, and hence the petitioner was constrained to file the appeal. The written statement filed on the record before the Tribunal by the Deputy Director of Vocational Education and Training reveals that there was no vacancy available for open category candidate when the petitioner came to be appointed lastly as an instructor, whereas according to the Deputy Director of Vocational Education and Training a candidate from open category was appointed against the post reserved for the backward class category. The Deputy Director has also placed on record before the Tribunal the roster. On the said material, the Tribunal has found amongst other things that the appointment of the petitioner against reserved post was illegal and hence, rejected the appeal. The order passed by the Tribunal does not call for any interference at the hands of this court, more so, when the written statement of the Deputy Director clearly reveals that after termination of the petitioner, the vacancy has been filled by appointing a scheduled caste category candidate and the said person is working since then till date. It is further stated in the reply filed by the Deputy Director that no post/vacancy is available to be filled in the school in the M.C.V.C. Course. Hence, the writ petition is summarily rejected.

A.P.DESHPANDE J.